

**STATE OF LOUISIANA
DEPARTMENT OF CIVIL SERVICE
BATON ROUGE, LA.**

July 17, 2008

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**STATE PERSONNEL MANUAL
TRANSMITTAL SHEET
NO. 446**

To: HEADS OF STATE AGENCIES AND PERSONNEL OFFICERS

Subject: Amendment to Chapter 12 of the Civil Service Rules

Issue Date: July 17, 2008

At its meeting on July 9, 2008, the State Civil Service Commission adopted amendments to Chapter 12 of the Civil Service Rules, effective July 9, 2008. NOTE: As a result of comments made during the public hearing, the amendment to Rule 12.9 differs from the proposal announced in General Circular No. 1728. Please make the following changes in your Civil Service Rules:

REMOVE		INSERT	
<u>Page</u>	<u>T/S</u>	<u>Page</u>	<u>T/S</u>
20.65	307	20.65	446
20.66	443	20.66	446
20.67	383	20.67	446
20.68	383	20.68	446
20.68.1	383	20.68.1	446
20.68.2	383		

Sincerely,

s/Anne S. Soileau
Director

CHAPTER 12 – DISCIPLINE; CORRECTIVE ACTIONS; SEPARATIONS

12.1 Authority to Discipline, Remove, and Separate. ***

An appointing authority may discipline, remove, or separate an employee under his or her jurisdiction.

12.2 Separation of Non-Permanent Employees; Cause Required to Discipline or Remove Permanent Employees. ***

(a) An appointing authority may separate a non-permanent employee at any time.

(b) An appointing authority may discipline or remove a permanent employee for cause.

12.3 Discipline; Restrictions. ***

(a) Discipline includes only: suspension without pay, reduction in pay, involuntary demotion, and dismissal.

(b) A suspension without pay cannot exceed 176 work hours except under Rule 12.5 or as ordered or agreed to under Chapter 13 or Chapter 16.

(c) A reduction in pay cannot reduce an employee's pay below minimum wage or below the pay range minimum.

12.4 Emergency Suspensions. [Repealed 7/9/08] ***

12.5 Suspension Pending Criminal Proceedings. ***

(a) With prior Commission approval, an appointing authority may suspend a permanent employee, without pay, pending criminal proceedings when an indictment or bill of information has been filed against the employee for conduct that, if proved, would be cause for dismissal and the appointing authority cannot obtain sufficient information to initiate dismissal proceedings.

(b) An appointing authority's request for approval of a suspension under this rule must explain why the conduct would be cause for dismissal, why the employee cannot be allowed to work in any capacity, and why sufficient information to initiate dismissal proceedings cannot be obtained. The request must also include documentation that an indictment or bill of information has been filed.

(c) Before approving a suspension under this rule, the Commission must furnish the employee a copy of the appointing authority's request and a reasonable opportunity to respond.

20.66

- (d) A permanent employee suspended under this rule must be given written notice before the time the suspension begins. This notice must comply with Rule 12.8 to the extent possible.

12.6 Non-disciplinary Removals.

- (a) An employee may be non-disciplinarily removed under the following circumstances:

1. When, on the date the notice required by Rule 12.7 is mailed, hand delivered, or orally given, the employee is unable to perform the essential functions of his job due to illness or medical disability and has fewer than eight hours of sick leave. An employee removed under this provision shall be paid for all remaining sick leave.
2. When, after the employee has been given written notice that his attendance requires improvement and a copy of this rule, an employee has seven or more unscheduled absences during any consecutive twenty-six week period. The employee shall also be given written notice each time he incurs a sixth unscheduled absence during a consecutive twenty-six week period. An unscheduled absence occurs when an employee is absent from work without having obtained approved leave prior to the absence. Approval of leave, after the fact, to cover an unscheduled absence shall not prevent the absence from being considered unscheduled. A continuous absence for the same reason is one unscheduled absence, regardless of its duration.
3. When, as a result of conduct that was not work related, the employee fails to obtain or loses a license, commission, certificate or other accreditation that is legally required for the job.
4. When the employee holds more than one position in the state service and the multiple employment causes an employing agency to be liable for overtime payments under the Fair Labor Standards Act and, after having been provided the opportunity to do so, the employee has refused to resign from one of the positions.
5. When there is cause for dismissal, but the cause is not the employee's fault.

- (b) When an employee is removed under this Rule, the adverse consequences of Rules 6.5(c); 7.5(a)7; 8.96(d); 8.13(a)7; 8.15(d); 8.18(d) and (e); 11.18(b) and 17.25(e)4 shall not apply

12.7 Notice of Proposed Action; Employee's Opportunity to Respond. ***

When an appointing authority proposes to discipline or remove a permanent employee, the employee must be given oral or written notice of the proposed action, the factual basis for and a description of the evidence supporting the proposed action, and a reasonable opportunity to respond.

12.8 Written Notice to Employee of Discipline or Removal.***

When an appointing authority decides to discipline or remove a permanent employee, the employee must be given written notice of the action being taken before the time the action becomes effective. The written notice must:

- (a) state what action is being taken and the date and time the action will become effective;
- (b) describe in detail the conduct for which the action is being taken including, where pertinent, dates, times, places, and names of persons directly involved in or affected by such conduct (unless their identities are protected by law, in which case, identification may be made as permitted by law); and
- (c) contain the following notice: "You have the right to appeal this action to the State Civil Service Commission within 30 calendar days following the date you receive this notice. The appeal procedure is contained in Chapter 13 of the Civil Service Rules, which is available from the Department of State Civil Service or your Human Resource office."

12.8.1 Giving Written Notice.

Written notice is considered given:

- (a) when it is hand delivered to the employee or
- (b) when it is hand delivered to a person of suitable age and discretion who resides with the employee or
- (c) on the 7th calendar day after it was mailed with correct postage to the employee's most recent address furnished in writing or electronically to the agency's human resource office.***

12.9 Improvement Letters.***

- (a) An appointing authority may issue letters (such as warnings, counseling, coaching, reprimands, supervisory plans, etc.) to attempt to improve an employee's conduct.
- (b) An employee may respond in writing to an improvement letter. The employee's response must be attached to each copy of the letter kept by the agency.
- (c) If the same or similar conduct recurs, an improvement letter can be used to support the severity of future discipline, but only if the letter advised the employee that the letter would be used for this purpose and advised the employee of his right to respond.
- (d) An improvement letter is not discipline, is only appealable under Rule 13.10(b) or (c), and may not be included in any publicly accessible personnel record until used to support future discipline.

12.10 Suspension Pending Investigation. ***

- (a) An appointing authority may orally suspend a permanent employee who is suspected of conduct that, if confirmed, would warrant discipline or removal and the employee's continued presence at work during the investigation and subsequent administrative proceedings would be contrary to the best interests of state service. The employee must be told that he is being suspended with pay and the general nature of the conduct being investigated.
- (b) A suspension pending investigation must be with pay and cannot exceed 260 work hours. Enforced compensatory or enforced annual leave cannot be used for this 260-hour period.
- (c) [Repealed effective 7/9/08]
- (d) A suspension pending investigation is not discipline and is only appealable under Rule 13.10(b) or (c).

12.11 Resignations. ***

- (a) An employee's oral or written resignation becomes effective on the date and time specified by the employee. An oral resignation must be documented by the person receiving it.
- (b) An employee may not withdraw or modify the resignation after the appointing authority accepts it, unless the appointing authority agrees.
- (c) When, after receiving notice that dismissal has been proposed, an employee resigns to avoid dismissal, the resignation must be reported as such.